

Minutes of a regular meeting of the Zoning Board of Appeals of the Village of Irvington, held in the Board of Trustees Hearing Room on November 23, 1993

MEMBERS PRESENT: Chairman Lustenberger
Robert Bronnes
Thomas M. Rothman
Lewis Herman
Robert Myers

ALTERNATE
MEMBERS PRESENT: George Rowe

ALTERNATE
MEMBERS ABSENT: John Fallon
Bruce Clark

VILLAGE OFFICIALS PRESENT: Eugene Hughey, Building Inspector

Chairman Lustenberger called the meeting to order promptly at 8:00 P.M. A motion was made to approve the Minutes submitted by Mr. Rothman for the previous meeting which motion was seconded and unanimously approved.

The first matter on the agenda was the adjourned Application of Sunnyside Federal Savings and Loan Association. Messrs. Rowe and Bronnes recused themselves for reasons stated at past meetings. Mr. Mondello submitted an affidavit of mailing of the notice of the adjourned hearing to the Board.

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Chairman Lustenberger stated that the only issue remaining to be decided is that of parking and that the Applicant had requested either an interpretation of Section 243-36(E) of the Code or, in the alternative, a variance to permit the construction of the proposed addition to the Association's building without having to provide additional parking. The Chairman then restated the issues, as reflected in the Minutes from the October 19th meeting, and stated that the Application recites that the Association proposes to construct approximately 3,147 square feet of new commercial space which requires sixteen parking spaces under the Code, and that the Applicant, subsequent to the 1984 Code amendment, has constructed seventeen additional parking spaces. The issue for interpretation is whether the parking spaces voluntarily constructed by the Association post-1984 Code amendment satisfies the parking requirement for the addition. The Chairman read a letter from the Village Attorney stating that there is no written record or guidance interpreting the pertinent 1984 Code amendment.

Members of the Board then addressed the issue and concluded that the proper interpretation of Section 243-36(E) of the Code is that the additional parking spaces required by the 1984 amendment

related solely to additional building space constructed after the effective date of the amendment, and not to the entire **building** including pre-amendment construction space, that the voluntary construction post-1984 amendment of seventeen parking spaces is to be counted as meeting post-1984 parking requirements and that applying such interpretation to the facts of the Application the requirements of the Code have been met by the post-1984 construction by the Association of seventeen parking spaces.

Mr. Tewey addressed the Board stating he disagreed with this interpretation but did not state any reason for his disagreement.

Chairman Lustenberger moved that Section 243-36(E) of the Code be interpreted to provide that additional parking spaces required by the 1984 Code amendment are required only with respect to construction commenced subsequent to the 1984 amendment. Therefor, since the Association has, since the effective date of the 1984 Code amendment, provided additional parking spaces in an amount sufficient to comply with the number of spaces required by the proposed addition, the Association is not now required to provide additional parking spaces. The Chairman's motion for such an interpretation and conclusion was seconded and unanimously approved. The Chairman then stated that no variance was necessary and the alternative relief requested was therefor moot.

The next matter heard was the Application of Mrs. Robert Desaulniers for a variance from the aqueduct buffer provision of the Code, Section 243-50, to permit the construction of an addition to her home at 130 Station Road. Robert Reilly, Architect for Mrs. Desaulniers, submitted an affidavit of mailing of the notice of the hearing and stated that of the proposed addition only between ten and fifteen percent will intrude into the aqueduct buffer, such amount being approximately fifty square feet. He further stated that the height of the proposed addition is not higher than the existing building and that, due to the raised height of the aqueduct at that location, neither the existing house nor the addition are in the line of site of persons walking on the aqueduct. Several members on the Board stated that they had visited the site and were in agreement with Mr. Reilly concerning the site intrusion. No Member of the audience spoke on this matter.

Motion was made and seconded to grant the variance requested, which motion was unanimously approved.

The next and final matter was the Application of Vahid and Mashid Noshirvani for a variance from Section 243-11 of the Code, front-yard setback requirements. Robert Reilly, Architect for Mr. and Mrs. Noshirvani, submitted an affidavit of mailing of the notice of the hearing and stated that the Noshirvani's have purchased the property at 60 West Clinton Avenue and are seeking to subdivide

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such property. The subdivision consists of two additional lots to the rear of the existing house to be serviced by a common driveway. The Planning Board has raised the question as to whether the proposed driveway, being within thirty feet of the existing house, causes the existing house to be on a corner lot requiring a thirty-five foot setback, which the existing house does not have. The Chairman read a letter in favor of the granting of the variance from the Chairman of the Planning Board.

Mr. Rothman stated that, in his judgment, the Application requests insufficient relief in that relief from Section 7-736 of the Village Law had not been requested and that, in his judgement, the flag lots created by the driveway do not satisfy the requirements of Section 7-736 of the Village Law. Mr. Rothman suggested that the Application be amended to seek such relief. Mr. Reilly declined such suggestion and stated that the Planning Board had not raised the issue and therefor he would not raise the issue.

Bob Massey stated that the driveway at the proposed location created a safety issue for ingress and egress to adjoining properties as did Barbara Denyer.

The matter was adjourned to the next meeting for further consideration, which meeting was scheduled for December 14th.

Motion to adjourn was made, seconded and approved at 9:40 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Rothman', is written over a horizontal line. To the left of the signature is a small square box containing a stylized 'M' or 'R' logo. To the right is a small square box containing a stylized '1' logo.

Thomas M. Rothman
Secretary